

From: Marcus I. Ryan
To: Microsoft ATR
Date: 1/23/02 11:22am
Subject: Microsoft Settlement

I will not attempt a point-by-point refute of the agreement, as people much more articulate than I am have already submitted detailed comments such as:

<http://www.kegel.com/remedy/letter.html>

I would, however, like to say that I don't believe the settlement penalizes Microsoft in any SIGNIFICANT way, and more importantly does nothing to restore competition. Yes, there are penalties and inconveniences in the agreement, but none force Microsoft to behave in a way more appropriate to a corporate leader and "innovator" in the field of computing. Instead they are still allowed to buy out, undersell, or basically destroy anyone who tries to compete. Without competition they still hold too much power over their customers and the market as a whole. In this situation everyone but Microsoft suffers.

Most applications are written for Windows - it is a popular and very usable operating system. However, because it is exclusively available through Microsoft, anyone that wishes to run Windows software MUST by a Microsoft operating system. It is difficult at best to run more than one operating system on a computer, so competitive software is nudged out of the market. With less competition, they gain more power; with more power they overpower more competitors, and the cycle continues.

Are there better solutions? Many, but I think two major changes in Microsoft's business practices need to be mandated:

(1) They need to be restricted from charging customers and resellers as though Windows is installed on any machine that can run Windows - why would people run a competing product if they have to pay for the Microsoft product anyway? Also, this way if they do run a competing product, and it gains popularity, Microsoft still makes money on a product it had nothing to do with developing.

(2) They need to be forced to provide all Application Programming Interfaces and patent rights needed to allow other operating systems to build their own emulators of Microsoft software. The idea is that the companies and organizations (including Linux, FreeBSD, and other free projects) would be able to develop API translators, so they, too, can run Windows software. Microsoft wouldn't have to provide an implementation, simply a document that says "here are all the calls programs can make, and here is the expected behavior". Each competitor would be responsible for their own implementation. This

way Microsoft could legitimately maintain their market position by being the best implementation - the fastest, easiest to use, most secure, etc. - without making it impossible for other competitors to do a better job than Microsoft.

I think Microsoft was, many years ago, quite an innovative company. I used to be thrilled at each new release of every Microsoft product because they included many new features that I needed and would use. Over the last decade they have lost that innovative spirit.

Each revision of their products looks nicer, but appearance is more art and advertising than innovation. They add many new features to their products each revision, but how many of these were original ideas on the part of Microsoft? I can't think of a feature Microsoft has developed and actually released in a product in the last five years that they didn't buy, license, or borrow from a competitor or partner.

They have gotten lazy because they don't need to work hard anymore. They can buy any idea, code, or company they like. If the creator or innovator won't sell the idea or their company, Microsoft can throw literally billions of dollars and making the idea theirs or nobody's through litigation, reverse engineering, or marketing practices.

In summary, Microsoft controls such a vast portion of the market, and has such enormous cash reserves and revenues it can survive and maintain its power through little technical effort of its own. Without government-mandated restrictions on their predatory behavior, they will never be forced to innovate on their own again. They can continue to be lazy, and keep others from releasing their own innovations, and in that market, no one but Microsoft (and their lawyers) benefit.

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